

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

DANIEL BROOKS,

Plaintiff,

v.

Civ. 11-655 JH/GBW

CORRECTIONAL MEDICAL  
SERVICES, INC.,

Defendant.

**ORDER DENYING MOTION FOR PRODUCTION OF DOCUMENTS**

**THIS MATTER** is before the Court on Plaintiff's Motion for Production of Documents. *Doc. 16*. Having reviewed the Motion, the Court finds that it should be denied.

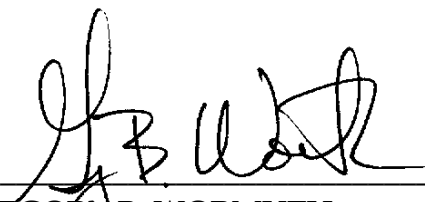
Plaintiff's motion seeks six categories of documents: Categories (1)–(4) cover various medical files and Categories (5)–(6) cover complaints Plaintiff has filed with prison officials. Subsequent to its filing, the Court dismissed Plaintiff's Complaint, but permitted him to file an Amended Complaint. *Docs. 19, 28*.

Defendant has since filed a motion for summary judgment. *Doc. 33*. Most significantly, Defendant's summary judgment motion raises the issue of failure to exhaust. *Id.* If Plaintiff has not exhausted his administrative remedies, then his suit will be barred. Therefore, at this point, only those documents which would establish exhaustion are relevant. Such would include Categories (5)–(6) from Plaintiff's motion.

However, the attachments of Defendant's summary judgment motion appear to include all documents sought by Plaintiff which fall into these categories. *Id.*, Exs.

Therefore, the Court will deny Plaintiff's motion for production of the medical records because they are not yet relevant. The Court will deny his motion for production of the complaint documents because it is mooted by their disclosure in Defendant's motion. If Plaintiff believes the medical records are relevant on the issue of exhaustion, he may file another motion for production explaining their relevance on that issue. If Plaintiff believes the attachments to Defendant's motion did not include all complaints sought in categories (5)-(6), he may file another motion for production identifying the missing documents.

Wherefore, **IT IS HEREBY ORDERED** that Plaintiff's Motion for Production, (*doc. 16*), is **DENIED**.

  
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GREGORY B. WORMUTH  
UNITED STATES MAGISTRATE JUDGE